



THE CITY OF NEW YORK
LAW DEPARTMENT
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BY FAX at (212) 805-7928
 Honorable Michael H. Dolinger
 United States Magistrate Judge
 Southern District of New York
 500 Pearl St.
 New York, NY 10007

ENDORSED ORDER

The deadline for defendant Captain Williams to respond to the complaint is extended to September 5, 2008.

[Signature]
 8/22/08

Re: Montero v. Williams, et al., 08 CV 2819 (LTS)(MHD)

Dear Magistrate Judge Dolinger:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney for defendant New York City Department of Correction ("DOC") in the above-referenced matter.¹ I am writing to inform the Court that earlier today, defendant DOC filed an answer to plaintiff's complaint. I am also writing to respectfully request a fourteen-day enlargement of time, from August 22, 2008 until September 5, 2008, within which defendant Captain Williams may answer or otherwise respond to the complaint.² I write directly to the Court because plaintiff is currently incarcerated and proceeding pro se in this matter. This is the second request for an enlargement of time to respond to the complaint on behalf of Captain Williams.

¹ Defendants respectfully submit that DOC is not a suable entity.

² Although this office does not currently represent Captain Williams, we respectfully make this request on his behalf in order that his defenses are not jeopardized while representational issues are being resolved.

The reason for this request is that, to date, I have been unable to resolve representational issues with respect to Captain Williams, as I understand that he has been on vacation and is not scheduled to return to work until after the Labor Day holiday. As a result, this office has been unable to resolve the issue of representation with him for purposes of submitting an answer on his behalf.

Additionally, I respectfully note that the Court's electronic docket sheet notes that service was effectuated on behalf of Officer Thompson by mail on or about June 2, 2008. However, this office recently received a copy of the Marshal's Receipt for Officer Thompson, which indicates that service was unable to be effectuated upon Officer Thompson due to lack of information. See Docket Entry #4. As this individual has not been served with a copy of the summons and complaint, Officer Thompson is not yet a defendant in this action. Based upon the information I have received to date, I am unable to identify this individual. On information and belief, there are five officers with the surname Thompson at the Anna M. Kross Center. Although the caption of the complaint notes that Officer Thompson works in intake, the body of the complaint appears to reference Mod I Lower. Additionally, the Officer Thompson who presently is assigned to Mod I Lower is female and the complaint uses masculine pronouns to refer to Officer Thompson.

In view of the foregoing, it is respectfully requested that the Court grant the within request extending defendant Captain Williams' time to answer or otherwise respond to the complaint until September 5, 2008.

Thank you for your consideration in this regard.

Respectfully submitted,



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